

From: jay ball
To: Microsoft ATR
Date: 1/23/02 10:33am
Subject: Microsoft Settlement

To The Justice Department,

I would like to express my concern that Microsoft is essentially receiving a slap on the wrist for illegal deeds performed that are more ominous than those done by Standard Oil a hundred years ago. I do hope that Microsoft is both punished and must pay retribution to the level of their crimes.

In reading the Proposed Final Judgment, I find that it abounds with narrow definitions and gaping loopholes. Here I present some of the points which stuck out to me:

The settlement still does not solve the problem of people and small businesses being forced to purchase Microsoft Windows along with a new computer even though I and others will never use it. Their EULA forbids me from upgrading my computer by taking the operating system from the old machine and installing it on the new machine. The settlement specifically allows Microsoft give OEM discounts based on the quantity of other Microsoft products that they offer. So, for a computer manufacturer, it makes sense to only offer only Windows.

On a similar note, Microsoft's enterprise license system bills by the number of computer which could run Windows, not by the number of systems that actually do run Windows. So, to use the enterprise scheme, you still have to pay for a Windows license on any Linux or x86-Solaris machine. This was banned once in 1994 by the consent decree, but it is no longer enforced. What other consent decrees has Microsoft violated?

The settlement does not apply to any Pocket PC, Ultimate TV, or X-Box operating system although all claim to be "powered by Windows", use the same 32bit API, and can share many files. The X-Box for instance is a PC with the same DirectX Graphic, Sounds, and general Windows APIs and Microsoft has even advertised it as being very easy to program since it is just like Windows. But, it is not covered under the settlement.

The definition is paraphrased as application software that itself presents a set of APIs which allow users to write new applications without reference to the underlying operating system. Microsoft Java is middleware, but Microsoft.NET and C# are advertised as the next generation Java - yet they are not middleware. Outlook Express is middleware, but a program which does the exact same thing and has a larger API interface, Outlook, is not middleware. And what about Office? For me to run some software, I am required to have a certain DLL included with Office but not Windows. A DLL by definition is

middleware, yet Office's DLLs do not apply. Why are some obvious products excluded from being middleware?

For there to truly be competition, Microsoft needs to publish and release the file formats of Office. Office has a near monopoly on any written document, however it runs only on Microsoft's operating systems (x86 Windows and Pocket PC Windows). Microsoft bundles Windows and Office for many OEMs. For any company to enter the business OS space, they need to offer a Office+OS bundles when Microsoft can extend and expand Office to run only on Windows at anytime (like Windows 3.1 on DR-DOS). However, if Office's file formats were public, other companies could make a compatible version of Office and offer a non-Microsoft groupware+OS solution.

In the arena of 3D graphics, Microsoft's DirectX does have some good competition, OpenGL. However, just this month (Jan-2002), Microsoft purchased all of the patents on OpenGL. Will Microsoft now crush this competitor by suing them out of existence? Microsoft has used threat of patent violation lawsuit in the past to drive competition out of business or to force others to not even create their product. But, what patents does Microsoft own and to what products does think they apply to? The settlement should address patent-product disclosure.

Enforcement does not exist in the document. A technical committee can supervise and recommend, to what end? Another five year trial? Penalties, restriction, and yes, even criminal incarceration is needed to prod this company into following the law and their own agreements.

In closing, I am sure others put similar complaints more elegantly, but I am sorely disappointed in the proposed settlement. As a Software Engineer, I can see myself how to get around many of restrictions that will be imposed. Might I suggest, in addition to the restrictive with "letter of law" of which the document is comprised, the proposal should add a plain English "spirit of law" section stating what this document is trying to accomplish. That way, the common person will know when Microsoft violates us again.

Jay Ball
Senior Software Engineer
US citizen, Hoboken, NJ